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Paper No. 6

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JUL 29 2003

In re Application of:
UCHISAKO *et al.*
Serial No.: 09/670,840
Filed: September 28, 2000
For: INK JET PRINTER

DECISION ON PETITION

This is a decision on the petition, 37 CFR § 1.181, filed May 14, 2003, to withdraw the holding of abandonment in the above-identified application. No petition fee is required.

The petition is **GRANTED**.

The application was held abandoned for failure to timely file a response to the Office action mailed on August 27, 2002. A Notice of Abandonment was mailed on March 14, 2003.

Petitioner asserts that the Office action mailed on August 27, 2002, was not received. To support this assertion, petitioner provided a statement attesting that a search of the file jacket and docket records showed that the Office action was not received. A copy of the file docket where the Office action would have been entered was also included.


A review of the written record indicates no irregularity in the mailing of the Office action, and in the absence of any irregularity there is a strong presumption that the Office action was properly mailed to practitioner at the address of record. This presumption may be overcome by a showing that the Office action was not in fact received. The showing required to establish the failure to receive an Office action must include a statement from the practitioner stating that the Office action was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office action was not received. A copy of the docket record where the non-received Office action would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. See "Withdrawing the Holding of Abandonment When Office Actions Are Not Received" 1156 Official Gazette 53 (November 16, 1993) and M.P.E.P. § 711.03(c).

The petition, and the attachments, is sufficient to establish a showing of non-receipt of the Office action mailed August 27, 2002.

For the above stated reason, the petition is granted. The Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn. The application is restored to pending status.

The application file is being forwarded to the Technology Center 2800 support staff for remailing the Office action. The shortened statutory period for response set therein will be reset to run from the date the Office action is remailed. Extensions of time are available under 37 C.F.R. § 1.136.

Inquiries regarding this decision should be directed to Clayton E. LaBalle at (703) 308-0519.


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